

FIFTH DIVISION

[CA-G.R. SP No. 122972, June 10, 2014]

**COSME B. MARPURI, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (FIFTH DIVISION), WALLEM
MARITIME SERVICES, INC., TSAKOS SHIPPING & TRADING S.A.,
AND MR. REGINALDO A. OBEN, RESPONDENTS.**

DECISION

SORONGON, E.D., J.

Assailed via this Petition for Certiorari under Rule 65 of the Rules of Court filed by Cosme B. Marpuri (petitioner) is the Decision^[1] dated July 29, 2011 as well as the October 14, 2011 Resolution^[2] issued by the National Labor Relations Commission (NLRC) in NLRC LAC No. 01-000010-11-OFW (NLRC NCR M-06-08784-10) which affirmed the ruling of the Labor Arbiter dismissing his claim for permanent total disability benefits under the POEA Standard Employment Contract (POEA-SEC) and denied his Motion for Reconsideration^[3], respectively.

The pertinent factual and procedural antecedents are as follows:

Petitioner was employed by private respondent Wallem Maritime Services, Inc. to serve as an Assistant Steward on board the vessel "*Inca*" which is owned and operated by its foreign principal, private respondent Tsakos Shipping and Trading S.A., for a period of nine (9) months with a basic monthly salary of US\$488.00, excluding overtime pay and other benefits.^[4] On November 8, 2009, he left the country to commence work on his assigned vessel. As an Assistant Steward, petitioner's duties included stocking, cleaning, assisting the Chief Cook with the preparation and serving of meals, storeroom operations and inventory.

On January 19, 2010, petitioner felt dizzy and collapsed on the galley floor which caused him to sustain head injury. Three days thereafter, he was brought to Bayshore Medical Center in Houston, Texas where the attending physician, Dr. George Griffin (Dr. Griffin), diagnosed him with "*Postural Hypotension, Syncope and Head Injury*". He was consequently repatriated on January 22, 2010 for medical reasons. Upon his arrival, petitioner was referred by his manning agent to Dr. Ramon Estrada and his team of specialists for further evaluation and treatment. After conducting a series of tests, Dr. Estrada issued a Medical Progress Report^[5] under date February 17, 2010 certifying petitioner's fitness to work again as a seaman, viz:

"x x x Mr. Cosme B. Marpuri, 47 year old seafarer, followed up in my office last January 29 and February 16, 2010. There was no recurrence of dizziness or any syncopal attack for the last 2 weeks. He is asymptomatic at present and without any subjective complaints. He can now be

declared fit to work and to travel. Diagnosis: Syncope (non-recurrent) sec. to overfatigue syndrome.”

Disputing the findings of the company-designated physician, petitioner filed a Complaint for permanent disability benefits, illness allowance, reimbursement of medical expense, damages and attorney's fees against private respondents on June 29, 2010. The case was docketed as NLRC NCR OFW-M-06-08784-10 and assigned to Labor Arbiter Ariel Cadiente. Attempts to conciliate having failed, the Labor Arbiter directed the parties to file their respective Position Papers and other relevant pleadings for the proper and full determination of the case.

In his Position Paper^[6], petitioner alleged that while his position as an Assistant Steward appears to be high sounding, in reality, he performs arduous tasks as messman. He averred that his heavy workload and the gruelling conditions of his employment, which required him to work 48 hours per week or 192 hours per month with a maximum of 103 hours of monthly overtime, eventually took a toll on his health and caused him to suffer a compensable illness.

He asseverated that when he collapsed on the ship's galley on January 19, 2011, he was not immediately afforded medical attention despite the fact that they were docked at a port in Texas. It was only when his condition worsened that he was brought to the emergency department of Bayshore Medical Center. Upon his repatriation, petitioner allegedly underwent treatment for over 120 days because the company doctors found him to have hypertension and its complications of heart illness. His treatment was, however, suddenly cut off and the doctors refused to furnish him copies of his relevant medical records. This constrained petitioner to consult an independent physician, Dr. Ruben Chavez (Dr. Chavez), who diagnosed him to be afflicted with rheumatic heart disease, hypertension – stage 1 and congestive heart failure^[7]. Consequently, Dr. Chavez declared him unfit for sea duty and permanently disabled as a seaman.

On the basis of the said findings, petitioner claimed permanent total disability benefits under Section 20(b), paragraph 5 of the POEA-SEC^[8] stating that his illness was contracted during the term of his contract of employment. Petitioner further alleged that private respondents failed to pay his sickness allowance for 120 days and prayed for damages and attorney's fees in view of the latters' supposed deliberate refusal to pay his claims.

Private respondents countered that petitioner was disqualified from claiming disability benefits under the POEA-SEC because the latter's alleged illness is different from that which caused his repatriation. They pointed out that petitioner was repatriated for Postural Hypotension and Syncopal Attack but his private physician instead diagnosed him with Rheumatic Heart Disease or Congestive Heart Failure. In fact, petitioner was already declared fit to work by Dr. Estrada, the company-designated physician, even prior to the institution of the case. Even the certification issued by Dr. Chavez did not mention that petitioner is still suffering from Postural Hypotension which only proves that petitioner was already cleared from said illness. Private respondents further stressed that the medical conclusions of Dr. Chavez should not be given credence as the same were obtained five months after petitioner was declared fit to work, during which period, the latter's whereabouts were unknown to them.

On October 29, 2010, the Labor Arbiter rendered judgment in favor of private respondents. In dismissing the complaint, he ruled that the company-designated physician's findings should prevail over the certification issued by Dr. Chavez because the former had monitored and treated petitioner's condition for several weeks as compared with the latter. The Labor Arbiter also opined that Dr. Chavez' diagnosis cannot be given much weight since it differed from the cause of petitioner's repatriation. He thus concluded that petitioner failed to discharge the burden of proving that his illness was work-related. The fallo of the decision reads:

"WHEREFORE, premises considered, the complaint is hereby DISMISSED for lack of legal and factual merit.

Other claims are likewise dismissed.

SO ORDERED."

Aggrieved by the above pronouncement, petitioner appealed to the NLRC who on July 29, 2011, issued its now assailed Decision disposing as follows:

"All told, We find no reversible error to have been committed by the Labor Arbiter. Thus, the appeal is denied and the decision under review is hereby AFFIRMED en toto.

SO ORDERED."

Unfazed, petitioner moved for reconsideration but as earlier mentioned, the same was also denied by the NLRC by Resolution dated October 14, 2011. Hence, the instant petition anchored on the following suppositions:

I

THE NLRC ARBITRARILY DISREGARDED THE EVIDENCE BY RELYING ONLY ON PETITIONER'S "POSTURAL HYPOTENSION" EVEN IF THE MEDICAL DIAGNOSES BY A DOCTOR IN TEXAS ALSO SHOWED HYPERTENSION, A CONDITION RELATED TO THE HEART DISEASE SUBSEQUENTLY DIAGNOSED BY PETITIONER'S DOCTOR.

II

THE NLRC ACTED CAPRICIOUSLY IN TOTAL DISREGARD OF EVIDENCE BY SWEEPINGLY GIVING CREDENCE ON THE COMPANY PHYSICIAN'S TREATMENT OF PETITIONER EVEN IF IT CONSISTED ONLY OF TWO (2) CHECK-UPS, FOCUSED ONLY ON PETITIONER'S SYNCOPE, THUS CANNOT BE CONSIDERED EXTENSIVE.

III

THE NLRC ACTED WHIMSICALLY IN FINDING NO CAUSAL CONNECTION BETWEEN THE DIAGNOSIS OF PETITIONER'S PHYSICIAN AND HIS EMPLOYMENT WITH PRIVATE RESPONDENTS EVEN IF A REASONABLE CONNECTION COULD BE ADDUCED FROM THE RECORDS.

Petitioner essentially contends that the NLRC gravely abused its discretion amounting to lack or in excess of jurisdiction when it denied his claim for disability compensation. According to him, the NLRC violated the avowed policy of the State to accord utmost protection to labor and grievously misapplied the principles